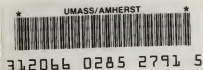


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Redistricting in Massachusetts

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AN INTRODUCTION TO REDISTRICTING IN MASSACHUSETTS

This booklet briefly explains the process for changing the boundaries of the various kinds of electoral districts in Massachusetts.

Part One describes how legislative districts for electing members of Congress, state senators, state representatives and governor's councillors are drawn by the state Legislature.

Part Two outlines how local districts (precincts and wards) are drawn by local officials subject to approval by a state agency- the Local Election District Review Commission.

By precedent wards and precincts, and the cities and towns which they comprise, form the building blocks for the larger legislative district. The smallest electoral district is the precinct; its residents all vote at the same polling place on election day.

Districts must be drawn so as to contain roughly equal numbers of residents; this is different from the number of registered voters. Population is determined by the most recent federal census. All redistricting relies on the federal census taken in 1990 and at subsequent ten year intervals. Cities and towns take an annual local census or "street listing" of the residents which is used to remove from the voting list the names of residents who have moved away.

To ascertain the boundaries of current districts contact the city or town clerk or election commission for local wards and/or precincts. Contact the Elections Division in the Office of Secretary of State for legislative districts.

For further information-

- Elections Division
One Ashburton Place, Room 1705
Boston, MA 02108
Telephone 617-727-2828 or 800-462-8683
- Local Election District Review Commission
c/o the Elections Division (above)
- U. S. Bureau of the Census
10 Causeway Street
Boston, MA 02222
617-565-7078

PART ONE: LEGISLATIVE REDISTRICTING

Congressional Districts

At present, Massachusetts has ten members in the United States House of Representatives. Each Representative is chosen from a district which is formed on the basis of the number of legal residents in the district. The number of legal residents is derived from the federal census which is taken at the beginning of each decade. Whether or not Massachusetts loses or gains a Representative is decided by the federal government based on the relative population of all fifty states and the District of Columbia.

The Bureau of the Census, a federal agency, is responsible for counting the number of persons in the United States. This was done in 1990 and is done every ten years. The President then transmits to the Congress the number of Representatives to which each state is entitled. Within fifteen days after receiving the President's statement the Clerk of the House transmits a certificate to the Governor of each state stating the number of Representatives to which that state is entitled. It is then the duty of the state to redraw congressional districts, each to consist of an approximately equal number of residents, corresponding to the number of Representatives certified to the state by Congress. In Massachusetts this task is carried out by the state legislature.

In the past, the legislature has established a Joint Special Committee consisting of members from both the Senate and the House. This committee releases a study of how it believes redistricting should be done. Based on these recommendations the full legislature redistricts the state. The new district takes effect for the next congressional election after the federal census (e.g. 2002).

✓ Legal Citations

United States Constitution article I, section 2; U. S. C. section 2a (1982); *White v. Weiser*, 412 U. S. 783 (1973); *Reynolds v. Sims*, 377 U. S. 533 (1964); Massachusetts General Laws ch. 57 section 1

State Legislative Districts

The Massachusetts Legislature is responsible for redrawing state representative, state senatorial and governor's councillor districts. This redistricting is based on the number of legal residents in each district as determined by the federal census taken in 1990 and every tenth year after. The Legislature starts redistricting in the year after the federal census is completed.

Each district for a particular office must contain an equal number of residents, as nearly as possible. For example, each state representative district must contain approximately 37,500 residents. This figure is obtained by dividing the total number of Massachusetts residents by the number of state representative seats (160). A district's population must be within 5% of that average number unless justified by important state policies. For example, in a state representative district the number of residents can probably be 1875 less or 1875 more than 37,500. This same procedure is used to calculate the number of residents in the 40 senatorial districts. Councillor districts are composed of five contiguous state senatorial districts; there are eight councillor districts in all.

There are other requirements the Legislature must follow when it redraws districts. The districts must be compact and contiguous. Whenever possible, a state representative or a state senatorial district should not be in two counties. Also, state representative districts should not split towns or cities if that can be avoided.

The new districts take effect for the state primary and election four years after the federal census on which they are based. The new districts resulting from the 1990 federal census will take effect for the 1994 state primaries and elections.

✓ Legal Citations

Generally: Massachusetts Constitution amend. article 101; Massachusetts General Laws chapter 57 sections 2, 3, 4; 1987 House Document No. 5875, at 20-30.

Standards: Brown v. Thomson, 462 U. S. 835 (1983); Black Political Task Force v. Connolly, 679 F. Supp. 109, 114, 123-31 (D. Mass. 1988) (three judge court); Merriam v. Secretary of the Commonwealth, 375 Mass. 246, 376 N. E. 2d 838 (1978).

Timing: Black Political Task Force v. Connolly, F. Supp. (D. Mass. 1992); Lamson v. Secretary of the Commonwealth, 341 Mass. 264, 168 N. E. 2d 480 (1960).

PART TWO: LOCAL REDISTRICTING

A precinct in the smallest electoral district; its residents all vote at the same polling place. A town, or ward of a city may consist of several precincts or may form a single precinct. Historically, precinct have been the building blocks for the larger districts discussed in Part One. In addition, towns with representative town meetings elect their members by precinct and cities choose political party committees and sometimes city council members or other officials by ward.

Part Two describes how the boundaries of precincts and city wards are redrawn. This is usually required after each federal census every ten years; the next federal census will be conducted in 2000. In addition, most precinct lines may be redrawn for local elections in any year the local government wishes to do so.

✓ Legal Citations

Massachusetts General Laws ch. 54 sections 1, 2, 6, 7, 24

Timing

Cities (except Boston) and towns are required to redistrict after the federal census every ten years beginning in 1990 if-

- the wards of a city do not contain approximately equal numbers of residents so that each ward's population is within 5 percent of the average, or
- a ward not divided into precincts contains more than 4,000 residents, or
- a town contains more than 6,200 residents.

Any city or town may redraw its wards or precinct lines in a federal census year.

Even if a city or town plans no redistricting because their present plan conforms with the law it is still necessary to file all the necessary information based on the latest federal census figures and have the plan reapproved.

In any other year, but not until the Legislature passes the law redrawing legislative districts following a federal census, a city or town may redistrict. The municipality must still meet the standards required by state law (see below). But in these other years, a city may not change the boundaries of its wards, unless the state Legislature allows it by special law, or unless a change is made in the number of wards to conform to a new charter.

✓ Legal Citations

- Census years: Massachusetts General Laws ch. 54, section 1 (city wards), 2 (city precincts), 6 (towns); 1982 Mass. Acts ch. 605, section 3 (Boston).
- Other years: Massachusetts General Laws ch. 54 sections 2 (cities), 7 (towns).
- Ward changes: Massachusetts General Laws ch. 54 section 1; City of North Adams L. E. D. R. C. November 27, 1978; City of Gloucester (L. E. D. R. C. October 25, 1977). See e. q., 1979 Mass. Acts ch 201

Standards

State law requires that cities and towns meet the following standards when new ward or precinct lines are drawn.

- Each new precinct must be "compact and contiguous" without protruding fingers or long tails.

- Precincts must be bounded by the center-line of streets or other well defined boundaries such as streams or other bodies of water, railroad tracks, power lines or other clearly visible geographic figures. These features must be recognized as block boundaries by the United States Bureau of the Census and appear on their official maps. Rear lot lines or other imaginary lines are not acceptable.

- No precinct may contain more than 4,000 residents.

- Every precinct's population must be within five percent (5%) of the average precinct population for that ward or town. Ward populations must be within five percent (5%) of the average ward population for the city.

- For state election purposes precincts may not be changed in a ward or town which is in more than one senatorial, representative or governor's council district. They may be changed for local elections only and in this case two sets of precinct lines must be maintained.

- For the purposes of dividing a city or town into precincts and of apportioning representation in any elected municipal body the figures reported by the federal census are the only numbers used.

✓ Legal Citations

- Generally: Massachusetts General Laws ch. 54 sections 2 (cities), 6 (towns).

- Population Deviations: L. E. D. R. C. Memorandum, January 20, 1989; Black Political Task Force v Connolly, 679 F. Supp. 109, 114, 123-31 (D. Mass. 1988) (three judge court); Brown v. Thomson, 462 U. S. 835 (1983).

- Same Congressional District: Massachusetts General Laws ch 54 section 4.

- Boundary Lines: Town of Danvers Board of Selectmen v. L. E. D. R. C., No. 85-2518 (Mass. Super., Essex January 6, 1986); City of Everett (L. E. D. R. C. March 19, 1986); Town of Freetown (L. E. D. R. C. February 25, 1986); City of Worcester (L. E. D. R. C. December 20, 1985).

Minority Vote Dilution

District boundaries must not result in the dilution of minority group members' votes. This is a consideration only when districts are used to elect officials- such as ward aldermen or councillors in a city or representative town meeting members by precinct in a town.

Section 2 of the federal Voting Rights Act of 1965, as amended by Congress in 1982, prohibits any voting practice which "results in a denial or abridgement of the right... to vote on account of race or color" or membership in a language minority group (such as Spanish speaking citizens). It is a violation of this statute if the political process is not equally open to members of such a racial or language minority group, in that they have less opportunity than others to participate in the political process and elect representatives of their choice. The federal courts have often held that this statute applies to the drawing of district boundaries for electing officials. The "equal rights" provision of article one of the state constitution's Declaration of Rights contains similar requirements.

It is important to notice that district (ward or precinct) boundaries that result in diluting minority group members' votes may violate these provisions even if the officials who drew those boundaries did not intend that result. In other words, without taking careful precautions officials may inadvertently violate these provisions (thus causing district boundaries to be invalid) or at least provoke unnecessary litigation. Whether a violation actually occurs depends on all the circumstances, including any history of official discrimination, the extent to which minority group members have been elected, lack of responsiveness to minority group interests and many other factors.

Two examples of possible violations are known as "packing" and "fragmentation".

- **"Packing"** means concentrating a high proportion of minority group members in one or a few districts so that their votes cannot elect as many minority group representatives.

- **"Fragmentation"** refers to spreading minority group members among many districts or submerging them in a district dominated by another group also resulting in their electing a smaller number of minority group representatives.

Under different circumstances either of these practices may violate the previously mentioned provisions.

In order to avoid even the unintentional violations officials should obtain precise information about how many minority group members reside in which areas of their city or town. The best source is the "Census of Population and Housing" provided by the United States Census Bureau. The data series "Block Statistics" contains basic race and ethnic information allowing aggregation of minority data from the block level up to the ward and precinct areas being redistricted for the community.

Some city and town planning offices will already have on hand the U. S. Census Bureau "Block Statistics" package containing these maps and data. If not, you can purchase the "Block Statistics" package for your metropolitan area from the U. S. Bureau of the Census, 10 Causeway Street, Boston, MA 02222 (telephone 617-565-7078). The data is available in printed form, on CD-ROM and on computer magnetic tape.

Federal census information and technical assistance (including computer advice) are also provided by MISER (Massachusetts Institute for Social and Economic Research), State House, Post Office Box 219, State House, Boston, MA 02133-0219 (telephone 617-727-4537) or at the University of Massachusetts, Amherst, MA 01002, (telephone 413-545-3460).

Finally, the United States Supreme Court has recently decided that under limited circumstances political minorities may have some constitutional protection against electoral district boundaries that "consistently degrade" their representation. The contours of this protection will depend on further litigation.

✓ Legal Citations

- Race and Language Minorities: 42 U. S. C. section 1973 (1982); Thornburg v. Gingles, 478 U. S. 30 (1986); Latino Political Action Committee v. City of Boston, 609 F. Supp. 739 (D. Mass. 1985)

- Political Minorities: Voinovich v. Quilter; Davis v. Bandemer, 478 U. S. 109 (1986).

Procedure

Local redistricting is adopted by ordinance passed by the city council or board of aldermen in a city and by a vote of the board of selectmen in a town. When redistricting is optional in towns the town meeting may vote to require the board of selectmen to redistrict.

Cities and towns must adopt a redistricting plan no later than June 15 of any year.

The city or town clerk must send notice to the Office of the Secretary of State no later than July 1. Six (6) items must be submitted.

1. Number and designation (numbers or letters) of wards and precincts and their population
2. Official census map showing new wards and precincts designated by number and letter
3. A physical boundary description of the new wards and precincts which includes the number of residents in each new ward and precinct
4. A list of the census block numbers and each block's population for each precinct

5. A small town map with the precincts drawn on it

6. Vote of adoption

All these submissions must be certified.

These materials should be accompanied by a letter from the city or town clerk or election commission that the materials have been certified by a vote of the board of selectmen or board of aldermen or the city council.

The Office of Secretary of State transmits these materials to the Local Election District Review Commission (L.E.D.R.C.). This part-time Commission consists of three members, one each appointed by the Governor, the Attorney General and the Secretary of State.

The Commission reviews the plan to see if it complies with the law. It either approves the redistricting plan or notifies the mayor or city manager of a city or the board of selectmen of a town that it disapproves no later than September 1 of that year. If the plan is disapproved the Commission must clearly spell out the deficiencies in the plan.

The procedures for correcting deficiencies differ for cities and towns.

In cities the mayor or city manager must revise the plan to bring it into compliance within fifteen (15) days of receiving notice from the Local Elections District Review Commission and present the revised plan to the city council. Within twenty (20) days after receiving the mayor's or city manager's revision the city council must adopt a revised plan. If the city council fails to adopt a plan the mayor or city manager will order a plan into effect not later than October 15. The revised plan is subject to the approval of the Commission.

In towns the board of selectmen receives the notice of deficiencies from the Commission. The Commission prescribes a time limit within which the board of selectmen must revise the plan to bring it into compliance with the Commission's notice. In any case, the plan must be revised no later than September 20.

✓ **Legal Citations**

- Cities: Massachusetts General Laws ch. 54 sections 1, 2
- Towns: Massachusetts General Laws ch. 54 sections 6, 7

Subprecincts in Representative Town Meeting Towns

In a town with a representative town meeting the board of selectmen may further divide these precincts for the sole purpose of facilitating voting. Each subprecinct will be designated by a letter added to a number or a number added to a letter. All town meeting members who represented the precinct which was divided must continue to represent the

entire territory of the precinct. Notice of the redistricting must be sent to the Office of the Secretary of State, but it need not be approved by the Local Election District Review Commission. Within twenty (20) after the division the board of selectmen must notify each registered voter in a newly divided precinct, in writing, of the location of the polling place to be used by that of the voter.

✓ **Legal Citations**

Massachusetts General Laws ch. 54 section 7A; Town of Framingham
(L. E. D. R. C. June 8, 1978)

Notice to the Public and Local Officials

Once a redivision has been approved by the Commission the city council in a city or the board of selectmen in a town must publish a map or description of the new precincts. The map must clearly define the boundaries of the precincts. Copies of the map or description of the precincts are sent to the registrars of voters, the board of assessors and to the election officers in each precinct. Copies are also posted in public places in every precinct as determined by the city council or the board of selectmen. Every registered voter whose polling place is changed by the redistricting must be notified by mail of the new polling place.

✓ **Legal Citations**

Cities: Massachusetts General Laws ch. 54 section 5

Towns: Massachusetts General Laws ch. 54 section 8

Notice to Voters: Massachusetts General Laws section 24

Effective Date

Changes in wards and precincts are effective on December 31 of the year of their adoption. All regular municipal preliminaries, primaries and elections held in any community after it has been redivided shall be held in such community as redivided.

✓ **Legal Citation**

Census Reporting: Massachusetts General Laws ch. 54 section 1 (cities), 6 (towns)

